



National Mediation Board Organizational Ombuds Charter

August, 2010

Background

In 2004 the NMB first created the office of Ombudsman and instituted an ADR program called the Employee Support Program (ESP). In September, 2005, an NMB Ombudsman Charter reaffirmed the NMB's commitment to its workplace ADR program, and brought the office of the Ombuds and the ESP in line with the "Standards for the Establishment and Operations of Ombuds Offices" established by the American Bar Association as annotated by the Coalition of Federal Ombudsmen (CFO) and the Federal Interagency ADR Working Group Steering Committee.¹ This revision to the NMB Organizational Ombudsman Charter reflects the creation of a Chief of Staff and the Ombudsman Office relationship to the Chief of Staff.

¹ Issued in August, 2005. See Appendix II of this document.

Scope of the Office

Under the definitions provided by the ABA Standards, the NMB Ombuds office has been established as an Organizational Ombuds program, addressing problems presented by employees or contractors of the NMB regarding actions of the NMB or its managers and employees. The NMB Ombudsman is the director of the agency's workplace ADR program, the Employee Support Program (ESP).²

In matters where NMB employees or contractors seek assistance with workplace problems, the NMB Ombudsman has been granted the authority to operate independent of pressure from the agency, impartially, and confidentially to problem solve, coach, and/or intervene as a third party.

Consistent with the ABA Standards, the NMB Ombudsman is authorized to:

- Receive complaints or concerns from employees across all NMB Departments;
- Exercise discretion to accept or decline to act on a complaint or question;
- Act on her or his own initiative to bring issues to the attention of NMB managers, the Chief of Staff, or Board Members;
- Gather information regarding complaints or concerns in a manner consistent with the informal nature of the office and the need for employee confidentiality;
- Coordinate with union representatives and the NMB EEO Director to ensure that no formal procedures are violated by the use of ADR to address concerns or complaints.

² See Appendix I of this document: Employee Support Program Information.

Independence, Impartiality, and Confidentiality

The NMB Ombudsman operates free from interference in the legitimate performance of her or his duties, reporting directly to the Chief of Staff. Only an action by the Chief of Staff, approved by a majority of the Board Members can:

- Limit the Ombudsman's performance of assigned duties;
- Remove the Ombudsman from her or his office;
- Eliminate the Ombudsman position.

The procedure and grounds for discipline and/or removal of a federal Ombudsman are controlled by 5 U.S.C. Chapter 75.

The NMB Ombudsman will not operate as an advocate for management or employees/contractors. Rather, the NMB Ombudsman will act as an impartial third party with no authority to resolve or settle disputes.

The NMB Ombudsman will not disclose and is not required to disclose any information provided in confidence by any party to a concern or complaint, except to address an imminent risk of serious harm. Records pertaining to a concern or complaint are confidential and not subject to disclosure outside the Ombudsman's office. Communication with the Ombudsman or the ESP Contacts³ will be considered "communication with neutrals" under the definitions of the Administrative Dispute Resolution Act of 1996 (ADR Act), which specifically prohibits disclosure of the substance of "dispute resolution communications." In cases where there are challenges to the confidentiality of information, the NMB Ombudsman will receive counsel and representation from the NMB General Counsel.

³ See the ESP Process in Appendix I.

Record Keeping and Reporting

The NMB Ombudsman will maintain records of Ombudsman and ESP contacts, recording the following information:

- The date on which the contact was made;
- Whether the contact was made with the Ombudsman or an ESP contact;
- The general nature of the contact, consistent with the need to maintain confidentiality and anonymity;
- Whether notification was given to the EEO Director or employee representative regarding the contact.

At the end of each fiscal year, not later than October 31, the NMB Ombudsman will issue to the Board a report with the above information summarized by fiscal year. The report will be posted on the NMB web site.